

DPD/OH

Director's Rule 22-2006

Applicant: CITY OF SEATTLE Department of Planning and Development (DPD) Office of Housing (OH)	Page 1 of 6	Supersedes: N/A
	Publication:	Effective:
Subject: Housing Bonus for Additional Residential Floor Area in DOC 1, DOC 2, DMC 240/400, and DMC 340/400 zones	Code and Section Reference: Seattle Municipal Code 23.49.015	
	Type of Rule: Code Interpretation	
	Ordinance Authority: SMC 3.06.040 and 3.14.740	
	Approved Adrienne E. Quinn, Director, HO	
Index: Land Use Code, Technical and Procedural Requirements	Approved Diane M. Sugimura, Director, DPD	

Background

SMC 23.49.015 allows additional gross floor area in developments on sites zoned DOC-1, DOC-2, DMC 240, and DMC 340 when housing affordable for low and/or moderate-income households is provided in the Downtown Urban Center or adjacent First Hill/Capitol Hill Urban Center. Such housing mitigates a portion of the housing-related impacts of higher-density residential development, as quantified by a City-commissioned study, Residential Nexus Analysis City of Seattle prepared by Keyser Marston Associates, Inc.

The affordable housing may be provided on or adjacent to the development site (performance option), or a developer may make a financial contribution to a fund for

affordable housing (payment option). In order to qualify, the housing must be affordable and available to low and/or moderate-income households for a minimum period of 50 years from the date on which the final certificate of occupancy for the affordable housing is issued.

Rule

I. Performance Option

The following guidelines apply to any housing an applicant provides within or adjacent to the residential tower.

A. General Guidelines

- **Income limits & affordability:** An annually updated table showing maximum incomes by percent of median income and household sizes and corresponding rent and sale limits is available from the Office of Housing (OH) at www.seattle.gov/housing/development/limits.htm; please see Sections B and C below for more information on income limits and affordability. These tables are prepared primarily with data provided annually by the U.S. Department of Housing and Urban Development and are used for a variety of OH administered programs.
- **Type of units:** Housing units provided to qualify for a bonus must include a range of unit sizes (e.g. studio, 1-bedroom, 2-bedroom, etc.) substantially proportional to the range of unit sizes of the total housing units in the development, except that affordable units may be smaller than market-rate units in terms of square footage. Estimated current need for units serving various sized low-income and/or moderate-income households, including families with children, shall be taken into account.
- **Siting of units:** All affordable units must be situated on either the same lot as where the bonus development is used, except that they may be located on lower floors, or on an adjacent lot; the availability of any amenities (e.g. open space, community rooms, athletic facilities) must be the same for market-rate and affordable unit residents.
- **Design, construction, and maintenance standards:** Affordable units must be comparable in design and general appearance to market-rate units, except that affordable units may have different interior finishes and features provided that such finishes and features are durable, of good quality and consistent with contemporary standards for new housing. Affordable rental units must be maintained in the same manner as market rate rental units.
- **Other Subsidies:** Exceptions to restrictions on use of other subsidies for bonused housing outlined in SMC 23.49.015D may be allowed if deemed appropriate by the Housing Director to facilitate creative approaches to the provision of affordable housing resulting in higher quality or quantity of housing than would otherwise be developed.

- **Casualty loss/replacement:** In the event that all or part of the housing development is damaged or destroyed by fire or other casualty, or is taken by condemnation or deed in lieu of condemnation, then, if the City and any holders of mortgages or deeds of trust on the property agree to permit repair or restoration of the affordable units on the property with the available insurance and/or condemnation proceeds, and such repair or restoration is feasible, the housing owner shall proceed diligently to complete such repair or restoration. If any casualty loss or condemnation results in the loss of use of more than 10% of the affordable units for a period of one year or more, the 50 year term with respect to the number of affordable units lost shall be automatically extended beyond the original 50 year term for a period equal to the period of time for which such affordable units are not in service.

In repairing, restoring or providing replacement units, the housing owner shall not use any direct or indirect public subsidies, except to replace any loan amounts repaid to public entities out of insurance or condemnation proceeds, and shall not be entitled to any additional benefits from City, King County, or State of Washington programs or from the federal Low Income Housing Tax Credit Program with respect to the provision of the replacement units, unless otherwise agreed to at the sole discretion of the Director of Housing.

- **Fees:** An initial monitoring fee (see Code for amount) per affordable unit will be assessed as a one-time charge to cover costs for developing the compliance monitoring plan, computer database program, and reporting system for the project, and training sessions for the housing owner/manager. Additional annual fees will be assessed on rental projects (see Code for amount).

B. Guidelines for Rental Units

The guidelines outlined in this subsection apply to rental units provided to mitigate housing-related impacts pursuant to SMC 23.49.015.

- **Affordability:** The monthly rent, together with a reasonable allowance for any basic utilities paid directly by the household, may not exceed one-twelfth of 30% of 80% of median income, adjusted for unit size. Annually updated rent and income limits are available at www.seattle.gov/housing. Rent includes all amounts paid directly or indirectly for the use or occupancy of the residential unit and common areas of the housing development. Rent does not include any fee paid for parking. A utility allowance schedule, which is periodically updated by the Seattle Housing Authority (SHA) and available from OH at www.seattle.gov/housing, may be used to estimate typical utility costs for the purpose of affordability calculations.
- **Annual report/monitoring:** The housing owner must submit an annual report in a format acceptable to OH in order to document compliance with voluntary agreements. The first report is due within one year of issuance of the final certificate of occupancy for the housing development, and due annually on April 1st thereafter. The report must include the following information, for the calendar year prior to the year in which the annual report is submitted, for each unit subject to affordability restrictions pursuant to a voluntary agreement:

- Unit #
- Resident name
- Move-in date
- Income certification date(s)
- Move-out date
- If the unit was vacant at 12/31
- Household size
- Maximum annual household income (based on income limits table for the calendar year prior to year in which annual report is submitted)
- Actual annual gross income of household
- Square footage
- Number of bedrooms
- Maximum allowed rent
- Utility allowance
- Monthly rent paid by tenant

The housing owner shall maintain all certifications and documentation obtained for annual report and monitoring purposes for at least five years after they are obtained, and shall make them available to OH for inspection and copying promptly upon request.

C. Guidelines for For-Sale Units

All guidelines outlined in this subsection apply to for-sale units provided to mitigate housing-related impacts pursuant to SMC 23.49.015.

- **Affordability:** Maximum unit sales prices shall be established based on housing costs that do not exceed 35% of the HUD annual median household income, including mortgage principal and interests, taxes, insurance, Homeowner Association dues and/or assessments. Maximum unit sales price assumes 5% down payment and the prevailing 30-year fixed-rate interest rates. Please contact Office of Housing for sales price maximums.
- **Monitoring:** The applicant shall substantiate that the sales price, and that each prospective buyer, meets eligibility requirements to the satisfaction of OH. Applicants shall submit documentation acceptable to OH for a determination of buyer eligibility at least 10 working days prior to close of Escrow on each unit.
- **Tenure:** Units purchased by eligible households may not be rented unless OH is contacted in advance and determines an exception is necessary due to demonstrated hardship. Such determinations will be made on a case-by-case basis.
- **Resale restrictions:** The maximum sales price permitted on resale of units designated for owner-occupancy shall ensure that the unit is affordable to income-qualified homebuyers, as defined in Section 1A, above. Deed restrictions will be required to help ensure resale restrictions are enforced. To the extent authorized in any resale restrictions or operative voluntary agreement, sellers may recover at time of sale the market value of capital improvements made by the seller and the seller's

necessary and usual costs of sale, and may authorize an increase in the maximum allowable sales price to achieve such recovery. Please contact OH for additional information on resale restrictions.

- **Changes in title:** Title to a unit may change due to changes in circumstance, including death, marriage and divorce. Except as otherwise provided by this Subsection, if a change in title is occasioned by an event that changes the financial situation of the household so that it is no longer income-eligible, then the property must be sold to an income-eligible household within 180 days. Upon the death of one of the owners, title in the property may transfer to the surviving joint tenant without respect to the income-eligibility of the household. Upon the death of a sole owner or all owners and inheritance of the unit by a non-income-eligible child or stepchild of one or more owners, there will be a one year compassion period between the time when the estate is settled and the time when the property must be sold to an income-eligible household. Inheritance of a unit by any other person whose household is not income-eligible shall require resale of the unit to an income eligible household as soon as is feasible but not more than 180 days.

D. Voluntary Agreement

No permit for any construction activity other than excavation and shoring may be issued until a voluntary agreement is signed by the applicant and accepted in writing by the Director of Housing. Such agreement must contain all of the relevant terms as outlined above, in addition to the following information:

- Basic project details (zone, gross floor area by use, # residential units, building height and number of floors, DPD project number); and
- The number, size (# bedrooms), location, affordability, and tenure (rental vs. for-sale) for units to be provided to mitigate housing-related impacts pursuant to SMC 23.49.015; and
- Nature and amount of any local public funding or other incentives provided by the City (if any); and
- Provisions and/or documents for resale restrictions, deeds of trust, rights of first refusal or rental restrictions.

II. Payment Option

- **Voluntary agreement:** The voluntary agreement for cash contribution must be in the form of a letter signed by the applicant or the owner of the site of the proposed residential tower. The letter shall include the following information:
 - Basic project details (zone; gross floor area by use; # residential units, building height and number of floors; DPD project number)
 - Contact information for DPD planner and developer representative(s)
 - Square feet of bonus residential floor area sought pursuant to SMC 23.49.015 and total cash contribution to be made

- Estimated project schedule (including dates for issuance of MUP and building permits)

The letter is due in advance of payment of the cash contribution and must be countersigned by the Director of Housing and the DPD Planner assigned to the project. Copies will be transmitted to the developer and DPD.

- **Form of payment:** The cash payment must be made in the form of a check payable to the "City of Seattle" and delivered to OH at Seattle Municipal Tower, 700 5th Avenue, Suite 5700 or mailed to P.O. Box 94725, Seattle 98124-4725.
- **Use of funds:** OH will deposit such payments in a special account established solely to fund the capital costs of developing housing for which the payments are made as set forth in SMC 23.49.015. Funds generally will be awarded through OH's Multifamily and/or Homebuyer Notice of Funding Availability (NOFA) processes to housing developers for construction of housing within the Downtown Urban Center and the adjacent First Hill/Capitol Hill Urban Center that is affordable to households whose incomes are no more than 80% of median income. Up to 10% of cash contributions pursuant to voluntary agreements for bonus floor area may be used by OH for administration of the Residential Bonus Program.
- **Land dedication:** In lieu of the cash payment option, the applicant may choose to dedicate land located within the Downtown Urban Center to the City, pursuant to acceptance by ordinance, or to a nonprofit housing developer approved by OH, provided that OH reasonably determines such land suitable for the construction of affordable units and of equivalent or greater value than the total cash contribution that would be made based on the City's current per square foot fee-in-lieu amount as described in this subsection.